

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1623-02
Bill No.: SCS for HB 662, with SA's 1, 2, & 3
Subject: Banks & Financial Institutions; Contracts & Contractors; Property-Real & Personal
Type: Original
Date: May 16, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Various State Funds	up to (\$625,000)	up to (\$750,000)	up to (\$750,000)
Total Estimated Net Effect on <u>All</u> State Funds	up to (\$625,000)	up to (\$750,000)	up to (\$750,000)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	(Unknown)	(Unknown)	(Unknown)

***Expected to exceed \$100,000 annually.**

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 3 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials with the **Department of Economic Development–Division of Finance and Division of Credit Unions** assume the proposal will have no fiscal impact on their agency.

In response to previous similar legislation, officials with the **Office of State Courts Administrator** assumed no fiscal impact to the judiciary.

Officials with the **Office of the Attorney General** did not respond to our fiscal note request. **Oversight** assumes any additional responsibilities could be absorbed by existing staff.

Officials with the **Office of Administration–Division of Design & Construction (OA)** assume the proposal will limit their ability to withhold retainage on building contracts, should contractors present substitute securities. Estimating a capital improvements budget of \$200 million and an average contract length of one year, OA notes that one-half of the retainage amount (5%) is paid when the contract is 50% complete, and the other half of the retainage (5%) is paid upon substantial completion. **Oversight** estimates that the Division will pay 10% of the capital improvements budget an average of nine months in advance. This amount (\$20 million) is currently invested at a rate of return estimated at 5% by OA. Oversight assumes an annual loss as a result of this proposal at up to \$750,000. The amount will vary depending upon the percentage of contractors presenting substitute securities.

Oversight cannot estimate the impact to municipalities, but assumes an unknown loss to exceed \$100,000 annually.

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
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VARIOUS STATE FUNDS

<u>Loss–OA</u>	<u>up to</u>	<u>up to</u>	<u>up to</u>
Earnings on Retainage Paid Immediately	<u>(\$625,000)</u>	<u>(\$750,000)</u>	<u>(\$750,000)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
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<u>Loss–All Municipalities</u>			
Earnings on Retainage Paid Immediately	<u>(Unknown)*</u>	<u>(Unknown)*</u>	<u>(Unknown)*</u>

***Expected to exceed \$100,000 annually.**

FISCAL IMPACT - Small Business

This proposal would have a direct fiscal impact on small businesses operating as contractors or subcontractors, or businesses utilizing contractors.

DESCRIPTION

This act stipulates that building contracts may allow owners to retain a portion of payment due to a contractor in order to ensure the proper performance of the contract. Owners may only withhold retainage when the owner pays a contractor within thirty days of receiving the contractor's invoice. Such retainage shall not exceed ten percent of the payment due pursuant to the contract or agreement unless the contractor's performance is not in accordance with the contract, in which case the owner may retain additional sums in any amount. Contractors may tender substitute security to an owner, after which the contractor may receive cash payments of retainage already withheld or may avoid withholding of retainage. Subcontractors may likewise tender substitute security to the contractor and either recover or avoid withheld retainage. These provisions shall not apply to single-family dwellings. These provisions will apply to public entities.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Economic Development
 Division of Finance
 Division of Credit Unions
Office of State Courts Administrator
Office of Administration
 Division of Design & Construction

NOT RESPONDING

Office of the Attorney General



Jeanne Jarrett, CPA
Director

May 16, 2001